

United States Senate
WASHINGTON, DC 20510

May 9, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

The Honorable Anne Milgram
Administrator
U.S. Drug Enforcement Administration

The Honorable Christopher Wray
Director
Federal Bureau of Investigation

Dear Attorney General Garland, Secretary Mayorkas, Administrator Milgram, and
Director Wray:

On April 14, 2023, the Department of Justice (DOJ) and the Drug Enforcement Administration (DEA) announced that the Southern District of New York (SDNY) had indicted El Chapo's sons ("Chapitos") and twenty-five members of the "Chapitos" faction of the Sinaloa Cartel.¹ Eight of the defendants were already in custody. Press releases and court records show that the SDNY indicted most, if not all, of the arrested defendants *weeks after* their arrests.

Defendant	Arrest Date	SDNY Indictment Date	Days from Arrest to Indictment
Ovidio Guzman Lopez	Jan. 5, 2023 ²	Jan. 25, 2023	20 days after arrest
Ana Gabriela Rubio-Zea	Mar. 17, 2023 ³	Apr. 4, 2023	18 days after arrest

¹ U.S. Dept. of Justice, Press Release, Justice Department Announces Charges Against Sinaloa Cartel's Global Operation, <https://www.justice.gov/opa/pr/justice-department-announces-charges-against-sinaloa-cartel-s-global-operation> (Apr. 14, 2023).

² Natalie Kitroeff and Steve Fisher, The New York Times, El Chapo's Son is Captured by Mexican Authorities for 2nd Time, <https://www.nytimes.com/2023/01/05/world/americas/el-chapo-son-ovidio-guzman-mexico.html> (Jan. 5, 2023).

³ Julio Román and EFE, *The United States sanctions the Guatemalan Ana Gabriela Zea Rubio, linked to the Sinaloa cartel, for which a US\$1 million reward was offered*, <https://www.prensalibre.com/guatemala/justicia/estados->

Carlos Omar Felix-Gutierrez	Mar. 16, 2023 ⁴	Apr. 4, 2023	19 days after arrest
Silvano Francisco Mariano	Mar. 16, 2023 ⁵	Apr. 4, 2023	19 days after arrest
Humberto Beltran Cuen	Mar. 17, 2023 ⁶	Mar. 15 or Apr. 4	2 days before or 18 days after arrest
Anastacio Soto-Vega	Mar. 18, 2023 ⁷	Mar. 15 or Apr. 4	2 days before or 17 days after arrest
Julio Marin-Gonzalez	Mar. 17, 2023 ⁸	Apr. 4, 2023	18 days after arrest
Sergio Duarte-Frias	Mar. 17, 2023 ⁹	Apr. 4, 2023	18 days after arrest

At a congressional briefing, DEA Administrator Anne Milgram stated that provisional arrest warrants and extradition packets for the SDNY indictments had not been transmitted to the Mexican government. At least one of these documents is required for a foreign arrest.¹⁰

Then, on April 27, 2023, Administrator Milgram testified about the SDNY indictments before the House Appropriations Committee. In response to a question by Congressman Hal Rogers, Administrator Milgram said, “one of El Chapo’s son’s, Ovidio Guzman, was arrested on prior DEA investigations.”¹¹ This statement requires clarification because the SDNY warrants were not transmitted to the Mexican government.¹²

According to court records, each of the four “Chapitos” were indicted by other districts well before the SDNY indictment. These earlier indictments charged offenses carrying ten years to life imprisonment.¹³

[unidos-sanciona-a-la-guatemalteca-ana-gabriela-zea-rubio-vinculada-al-cartel-de-sinaloa-por-la-que-se-ofrecia-una-recompensa-de-us1-millon-breaking/](#) (Apr. 14, 2023).

⁴ U.S. Dept. of State, *Narcotics Rewards Program: Wanted Carlos Omar Felix Gutierrez* (Captured),

<https://www.state.gov/carlos-omar-felix-gutierrez-captured/> (Apr. 14, 2023)

⁵ Narcotics Rewards Program: Wanted Silvano Francisco Mariano (Captured),

⁶ Noticias Telemundo, *Guatemala captures two alleged Mexican drug lords in less than 24 hours*,

<https://www.telemundo.com/noticias/noticias-telemundo/narcotrafico/guatemala-captura-a-dos-presuntos-capos-mexicanos-en-menos-de-24-horas-rcna75609> (Mar. 18, 2023)

⁷ U.S. Dept. of State, *Narcotics Rewards Program: Wanted Anastacio Soto Vega*, <https://www.state.gov/anastacio-soto-vega-captured/> (Apr. 14, 2023).

⁸ U.S. State Dept., *Narcotics Rewards Program: Wanted Julio Marin Gonzalez* (Captured),

<https://www.state.gov/julio-marin-gonzalez/> (Apr. 14, 2023).

⁹ Noticias Telemundo, *Guatemala captures two alleged Mexican drug lords in less than 24 hours*,

<https://www.telemundo.com/noticias/noticias-telemundo/narcotrafico/guatemala-captura-a-dos-presuntos-capos-mexicanos-en-menos-de-24-horas-rcna75609> (Mar. 18, 2023)

¹⁰ Justice Manual 9-15.000-International Extradition and Related Matters, <https://www.justice.gov/jm/jm-9-15000-international-extradition-and-related-matters>

¹¹ House Appropriations Committee, Budget Hearing – Fiscal Year 2024 Request for the Drug Enforcement Administration, <https://appropriations.house.gov/legislation/hearings/budget-hearing-fiscal-year-2024-request-drug-enforcement-administration> (Apr. 27, 2023).

¹² See, Dept. of Justice, Press Release, Sons of Joaquin Guzman Loera aka “El Chapo” Charged with Drug Trafficking, <https://www.justice.gov/opa/pr/sons-joaquin-guzman-loera-aka-el-chapo-charged-drug-trafficking> (Feb. 21, 2019). Incredibly, DEA Administrator Milgram claimed virtually sole-credit for the Chapitos investigations

¹³ See, e.g., *U.S. v. Guzman Salazar*, 9cr383 (E.D.Ill), available at <https://www.justice.gov/opa/press-release/file/1579776/download>; *U.S. v. Guzman Lopez*, 1:18CR00081 (D.D.C. Apr. 2, 2018), available at [Guzman \(justice.gov\)](https://www.justice.gov/guzman).

Defendant	Earlier Indictment	SDNY/DEA Indictment
Ovidio Guzman Lopez	July 6, 2017 ¹⁴	January 25, 2023
Joaquin Guzman Lopez	July 6, 2017 ¹⁵ October 2022 ¹⁶	None
Ivan Archivaldo Guzman Salazar	October 2022	April 4, 2023 ¹⁷
Jesus Alfredo Guzman Salazar	October 2022	April 4, 2023

Based on information received by my office, DEA agents allegedly participated in the investigations leading to these earlier indictments and, in early 2022, they were instructed by DEA leadership to “stand down” on efforts related to these cases. DEA allegedly clawed back any DEA evidence supporting these earlier cases and DEA Chief of Operations Ray Donovan allegedly issued an edict that all DEA divisions were to send Chapitos-related information to headquarters for use in a new SDNY indictment. Around the same time, DEA leadership instructed its non-OCDETF¹⁸ agents to “stand down” from OCDETF “Operation FONSI” in favor of unilateral efforts against the cartels. Operation FONSI was a multi-agency OCDETF initiative designed to target fentanyl distribution by Transnational Criminal Organizations, including the Sinaloa Cartel and the Cartel de Jalisco Nueva Generación (CJNG).

In 2020, then-Deputy Attorney General Rosen issued a memo stating that offices must de-conflict international investigations before an indictment is issued. The Rosen Memo instructed offices to collaborate and share information on overlapping targets. According to allegations, the Northern District of Illinois (N.D. Ill.), the Narcotic and Dangerous Drug Section (NDDS), and the Southern District of California (SDCA) adhered to that directive and agreed to jointly target the Chapitos in the summer of 2021. Each office agreed to merge its indictments against the Chapitos into one unified indictment. The DEA allegedly responded by withdrawing its support for the joint operation and enlisting the SDNY for a unilateral indictment. In doing so, the SDNY and DEA created a de-confliction dispute with respect to the Chapitos indictments filed by the N.D. Ill., NDDS, and SDCA.

Under the Rosen Memo, any de-confliction dispute involving NDDS should be resolved by the Deputy Attorney General (DAG). Further, the Rosen Memo directs that until the dispute is resolved no office may charge or apprehend any target implicated in a de-confliction dispute without exigent circumstances authorized by the DAG. The DAG allegedly failed to resolve the dispute for roughly one year.

It took over a year for the DEA and SDNY to build their new indictment. During that year, the Chapitos organization brutally murdered individuals and pumped fentanyl into the United States. Below are a just a few examples from the SDNY indictment that occurred during the stand down:

¹⁴ *U.S. v. Guzman Lopez*, 1:18CR00081, Dkt. No. 1 (D.D.C. July 6, 2017).

¹⁵ *Id.*

¹⁶ *U.S. v. Guzman Salazar*, 09 CR 383 (N.D. Ill. Oct. 2020).

¹⁷ *U.S. v. Guzman Salazar*, 1:23cr180, Dkt. No. 1 (SDNY Apr. 4, 2023).

¹⁸ Organized Crime Drug Enforcement Task Force (OCDETF).

- “In Spring 2022, Ovidio Guzman Lopez noted that he was working to centralize all fentanyl manufacturing in Sinaloa, effectively establishing a monopoly for the Cartel over the fentanyl market in Mexico.”¹⁹
- “Since in or about July 2022, border seizures of fentanyl have averaged approximately 2,200 pounds of fentanyl a month. In November 2022 alone, U.S. authorities seized approximately 2,900 pounds of fentanyl at the border.”²⁰
- “In or about August 2022, in Ciudad Juarez, OSCAR NOE MEDINA GONZALEZ, a/k/a ‘Panu’, the defendant, ordered Cartel *sicarios*, in conjunction and coordination with the Artistas Asesinos enforces, to destroy businesses that belonged to a rival cartel, leading to arsons and shootings that left more than 10 dead and would later be called ‘Black Thursday.’”²¹
- “On or about August 19, 2022, approximately 41.2 kilograms of fentanyl powder and 630,000 fentanyl pills, as well as approximately \$22,000 in cash were seized from a single stash house in Phoenix[.]”²²
- “In or about November 2022, CARLOS LIMON, the defendant, in Mexico, tested the purity of fentanyl that he and other cooks had recently manufactured for the Cartel by having an individual addicted to the drug inject a sample of this batch. The individual died upon injection, but the Cartel nevertheless went forward with distributing the batch.”²³

Administrator Milgram described the Sinaloa and CJNG cartels as “the greatest threat to Americans” and the fentanyl epidemic as “the worst drug crisis this country has ever faced.”²⁴ Nearly 300 people die every day from drug poisonings.²⁵ Many of them are children. Interagency rivalry and career posturing over fentanyl-related enforcement actions is unacceptable and shameful. To that end, please provide the following information by May 22, 2023.

1. Please detail how the DEA, Homeland Security Investigations, FBI, and United States Attorney’s Offices de-conflicted the cases referenced in this letter. Please provide all records²⁶ related to those de-confliction attempts.

¹⁹ *Id.* at ¶ 59.

²⁰ *Id.* at ¶ 24.

²¹ *U.S. v. Guzman Salazar*, 1:23cr180, Dkt. No. 1 at ¶ 42.

²² *Id.* at ¶ 67.

²³ *Id.* at ¶ 100.

²⁴ Written Statement of Anne Milgram Before the Committee on the Appropriations Subcommittee on Justice, Science, and Related Agencies United States House of Representatives For a Hearing Titled Fiscal Year 2024 Request For the Drug Enforcement Administration, pages 2 & 7, <https://www.dea.gov/sites/default/files/2023-04/HHRG-118-AP19-Wstate-MilgramA-20230427.pdf> (Apr. 27, 2023).

²⁵ *Id.* at 2.

²⁶ “Records” include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (e-mails, email attachments, and any other electronically-created or stored information),

2. Please provide all records related to DEA leadership's directive to withdraw from the earlier cases against the Chapitos as well as their directive to provide case materials to headquarters.
3. Please explain how the SDNY indictment impacted any attempts to arrest or capture Ovidio Guzman Lopez, Joaquin Guzman Lopez, Ivan Archivaldo Guzman Salazar, Jesus Alfredo Guzman Salazar, or other previously indicted individuals who are named in the SDNY indictment. Please provide all records related to those operations.
4. Please identify the individuals within the Department of Justice who allowed the DEA and SDNY to spend a year reissuing indictments against the Chapitos when provisional arrest warrants for the Chapitos had already been transmitted to Mexico on the earlier indictments.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley